

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MALCOLM BROOKS,

Plaintiff,

vs.

STATE OF NEVADA,

Defendant.

Case No. 2:21-cv-00401-KJD-VCF

**REPORT AND RECOMMENDATION FOR
DISMISSAL**

The Court previously granted pro se plaintiff¹ Malcolm Brooks's application to proceed *in forma pauperis* (ECF No. 1) and dismissed his complaint without prejudice with leave to amend. (ECF No. 4). The Court dismissed his case (a lawsuit regarding a traffic citation that he alleged violated Articles IV-VI of the US Constitution) because he failed to state a claim. (*Id.*) The Court gave plaintiff until Monday, May 10, 2021 to file an amended complaint and warned that, "[f]ailure to timely file an amended complaint that addresses the deficiencies noted in this Order may result in a recommendation that the dismissed claims be dismissed with prejudice." (*Id.*)

The Court also warned the plaintiff that, "[p]ursuant to LR IA 3-1, the plaintiff must immediately file written notification with the court of any change of address...Failure to comply with this rule may

¹ Brooks erroneously captioned himself as the defendant and the State of Nevada as the plaintiff because he titled his complaint a "notice of removal." As discussed in this Order (ECF No. 4), nothing in Brooks's complaint regarding his traffic citation indicates that this case has been removed from state court to this Court.

1 result in dismissal of the action.” (*Id.*) Plaintiff has not filed an amended complaint or an objection to the
2 Court’s order. For the reasons discussed in the Court’s Order (ECF No. 4), plaintiff’s case should be
3 dismissed.

4 ACCORDINGLY,

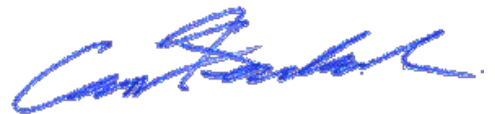
5 IT IS RECOMMENDED that this action be DISMISSED and Judgment entered

6 **NOTICE**

7 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
8 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
9 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
10 may determine that an appeal has been waived due to the failure to file objections within the specified
11 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
12 objections within the specified time and (2) failure to properly address and brief the objectionable issues
13 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
14 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
15 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Pursuant to LR IA 3-1, the plaintiff must immediately file
16 written notification with the court of any change of address. The notification must include proof of
17 service upon each opposing party’s attorney, or upon the opposing party if the party is unrepresented by
18 counsel. Failure to comply with this rule may result in dismissal of the action.
19

20 IT IS SO ORDERED.

21 DATED this 1st day of June 2021.

22 

23 CAM FERENBACH
24 UNITED STATES MAGISTRATE JUDGE
25